

R E M A R K S

This is in response to the Office Action of September 30, 2008. Claim 1 is amended to incorporate certain limitations of claim 6, and claim 6 is accordingly cancelled without prejudice. Claim 1 is further amended in view of disclosure in the specification, on page 4 (“The amount of the conjugated diene monomer is ... especially preferably 55-81 wt% of total monomers”), page 5 (“The amount of an ethylenically unsaturated acid monomer is ... especially preferably 2-8 wt% of total monomers”), and page 6 (“The amount of the above-mentioned other monomer is ... especially preferably 11-43 wt% of total monomers”). The recited solids content is based on disclosure in the last paragraph on page 12 of the specification (“The concentration of solids content in dip-forming composition is preferably 20-40 wt%”). Finally, claims 1 and 2 are amended to recite dibenzoyl peroxide in accordance with such disclosure as that in the first full paragraph on page 10 of the specification (“On the point that it provides dip-formed articles with well-balanced properties, dibenzoyl peroxide is preferably used as an organic peroxide”). No new matter is introduced by this Amendment. Claims 1-5 and 7-9 remain pending in the application.

Rejections under 35 U.S.C. 102

Claims 1, 2, 4, 5, and 8 were rejected under 35 U.S.C. 102(b) as being anticipated by Osen et al. (US 2003/0144400). In setting forth the anticipation rejection by Osen in the paragraph bridging pages 2-3 of the Office Action, the Examiner refers to paragraphs [0009]-[0014] of the reference. That disclosure is purely generic – it does not disclose any specific composition falling within the scope of Applicants’ claims.

Claims 1-3 were rejected under 35 U.S.C. 102(e) as being anticipated by Toya et al. (US 2007/0112141). Office Action, page 4. The Toya reference, US 2007/0112141, is actually not available as prior art, because it is a publication of a U.S. national phase of an international application which was filed on or after November 29, 2000 and the WIPO publication thereof

was not in English (in this case, it was published in Japanese). Accordingly, the U.S. national phase application, even when published or issued as a patent, has *no* 35 USC 102(e) date. However, the Toya reference is related to WO 03/072649, which is available under 35 USC 102(b) as of its publication date of September 4, 2003. Accordingly, Applicants point out that the Toya disclosure upon which the Examiner relies for anticipation is purely generic – it does not disclose any specific composition falling within the scope of Applicants' claims.

Applicants respectfully submit that both anticipation rejections (Osen and Toya) are not justified. Anticipation is not made out by a hindsight selection, based on an applicant's disclosure, of variables of a broad generic disclosure in a reference. *In re Ruschig et al.*, 145 USPQ 274. There is no anticipation where one skilled in the art would have to choose judiciously from a genus of possible combinations, *In re Sivaramakrishnan*, 213 USPQ 441, or where the reference does not highlight the claimed mixture, among many dozens disclosed, or suggest the claimed ratio, *In re Kollman et al.*, 201 USPQ 193.

#### Rejections under 35 U.S.C. 103

Claims 6 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400). Office Action, pages 5-6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osen et al. (US 2003/0144400) in view of Nile et al. (US Patent 5,399,400). Office Action, page 6. The rejections are respectfully traversed.

As discussed above, Osen does not disclose any specific composition of a conjugated diene rubber latex, and therefore does not anticipate any of Applicants' claims. It is respectfully submitted that any possible *prima facie* case of obviousness raised by the Osen disclosure is rebutted by evidence of record in this application.

The present invention – as claimed in claims 1-5 and 7-9 hereinabove – provides a dip-forming composition which comprises a conjugated diene rubber latex having a specified composition and a dibenzoyl peroxide. The claimed dip-forming composition also has a

specified concentration of solids content. The particular compositions recited in Applicants' claims provide dip-formed articles which have wearing comfort, excellent tensile strength, and high resistance to flexing fatigue. These novel dip-formed articles do not discolor, even when they are worn and used for long periods.

The Osen disclosure suggests the *equivalence* of 2,5-dimethyl-2,5-di-tert-butylperoxyhexane, 2,5-dimethyl-2,5-di-tert-butylperoxyhexine-3, di-tert-butyl peroxide, **dicumyl peroxide**,  $\alpha$ ,  $\alpha'$ -di-tert-butylperoxydiisopropyldiisopropylbenzene, **dibenzoyl peroxide**, and 1,1-di-tert-butylperoxy-3,3,5-trimethylcyclohexane. See paragraphs [0018]-[0025] therein. Data in the Examples and Comparative Examples of Applicants' specification demonstrate that not all of the organic peroxides disclosed in Osen (or in Toya) provide the desired beneficial properties. For instance, in Comparative Example 1, dicumyl peroxide is employed as the organic peroxide, and the rubber gloves obtained exhibit inferior resistance to flexing fatigue. Therefore, Applicants' selection of dibenzoyl peroxide from among all of the peroxides taught by Osen unexpectedly provides beneficial properties. This would not have been obvious to a person of ordinary skill in the art at the time that Applicants' invention was made.

### Conclusion

In view of the foregoing amendments and arguments, Applicants respectfully solicit withdrawal of all rejections of record, and passage of this application to Issue.

If there are any questions, please contact Richard Gallagher, Registration No. 28,781, at (703) 205-8008.


Application No. 10/578,430  
Reply to Office Action of September 30, 2008

Docket No.: 4829-0108PUS1

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: **MAR 30 2009**

Respectfully submitted,

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